

Appendix A

Englewood’s January 6, 2021 subpoena to HSS included 13 document requests. Englewood requests relief as to Request Nos. 4-7, 9-10, 12, and 13, as described below. Based on HSS’s counsel’s representations, and in an effort to narrow the issues before the Court, Englewood is not seeking enforcement of Request Nos. 1-3, 8, or 11.

Request	HSS Response	Current Status
<p>Request No. 4: <i>Documents and data sufficient to show Your primary service area and Your secondary service area in which you draw patients for inpatient GAC services, including the zip codes that comprise Your facilities’ service areas and Your market shares within those service areas.</i></p>	<p><u>No Documents Produced</u> <u>Objection in Full</u></p>	<p>Englewood has proposed limiting this request to documents sufficient to show HSS’s primary service area (“PSA”) and secondary service area (“SSA”), including corresponding zip codes, to one facility (HSS Main Campus) and the HSS system overall.</p> <p>Ex. 4, HSS’s public bond offering memorandum from 2018, at App. A, A-10 to A-11 (pp. 72-73 of the PDF), states that HSS’s SSA includes Bergen, Essex, Hudson, and Passaic Counties, and other New Jersey counties, and states HSS has a 10% market share in “Northern/Central NJ” for non-emergent inpatient orthopedic surgery. Englewood seeks data that are more current and more granular, as these data directly bear on the FTC geographic market allegations and HSS’s relevance as a competitor. Nearly all hospital systems look at PSA and SSA in the ordinary course of business, and HSS should be able to readily produce such information.</p>

Request	HSS Response	Current Status
<p>Request No. 5: <i>All strategic and business planning documents, marketing plans, advertising, market studies, forecasts, surveys, or other strategic documents that discuss, analyze, or describe competition, competitors, or market share for inpatient GAC, outpatient, or physician services in Bergen, Hudson, Passaic, or Essex Counties, NJ, or which analyze or describe any plans to develop, expand, or reduce Your provision of inpatient GAC, outpatient, or physician services in Bergen, Hudson, Passaic, or Essex Counties, NJ.</i></p>	<p style="text-align: center;"><u>No Documents Produced</u> <u>Objection in Full</u></p>	<p>Englewood has clarified that it seeks documents discussing (i) HSS’s efforts to expand inpatient and outpatient services in Northern New Jersey (Bergen, Hudson, Essex, and Passaic Counties) and the strategic rationale for doing so; (ii) the number of Northern New Jersey residents that come to HSS Main Campus and ways to attract more of them; (iii) Northern New Jersey hospitals that compete with HSS Main Campus; and (iv) how HSS competes for patients that reside in Northern New Jersey through HSS Paramus as a driver of patients to the HSS Main Campus for inpatient procedures.</p> <p>The FTC has also adopted Englewood’s Request No. 5 in Request No. 3 of the FTC Subpoena.</p>
<p>Request No. 6: <i>All reports, presentations, or materials written or created by consultants, advisors, or other third parties engaged by You that discuss, analyze or describe competition, competitor or market share for inpatient GAC, outpatient, or physician services in Bergen, Hudson, Passaic, or Essex Counties, NJ, or which analyze or describe any plans to develop, expand, or reduce Your provision of inpatient GAC, outpatient, or physician services in Bergen, Hudson, Passaic, or Essex Counties, NJ.</i></p>		
<p>Request No. 7: <i>All documents that discuss, analyze or describe any of Your strategic initiatives and operational plans (including, but not limited to, construction of infrastructure and recruitment of physicians) to expand or develop the provision of inpatient GAC, outpatient, or physician services in Bergen, Hudson, Passaic, or Essex Counties, NJ, including but not limited to the rationale and impact on Your inpatient general acute care admissions from You expanding HSS Paramus Outpatient Center in 2017.</i></p>		

Request	HSS Response	Current Status
<p>Request No. 9: <i>All documents and communications reflecting any price/rate, discount or other contract concessions You made or offered or that was requested of You (even if not consummated) to any payor (commercial or managed Medicare) for inpatient GAC, outpatient, or physician services based, in whole or in part, on actual or perceived competition from other healthcare providers in the Northern New Jersey/New York area for inclusion in that payor's network, including any narrow network or tiered products for which you requested a competing provider would be excluded or placed in a less-favorable tier.</i></p>	<p style="text-align: center;"><u>No Documents Produced</u> <u>Incomplete Response to Nos. 10 & 12</u></p>	<p>HSS has provided no substantive response to No. 9, and its only response to Nos. 10 & 12 has been to provide a hyperlink to its website's list of accepted insurance plans. This is insufficient to confirm which payors/plans are focused on New Jersey and to determine if there have been changes over time (as Request No. 10 seeks back to 2018).</p> <p>Englewood has proposed limiting the "sufficient to identify" Request Nos. 10 and 12 to documents identifying each New Jersey payor and each health plan offered in New Jersey in which HSS's Main Campus is or has been a participating provider since January 2018.</p> <p>For such identified New Jersey payors or plans, Englewood proposed limiting these requests to strategic documents discussing the rationale for entering a contractual relationship with a New Jersey payor or plan, and documents sufficient to show the terms of the contract.</p>
<p>Request No. 10: <i>Documents sufficient to identify each health plan (commercial or managed Medicare) offered in New Jersey in which You are or have been a participating provider since January 1, 2018, and all documents or communications discussing the possible or actual termination of Your participation in any such health plan.</i></p>		
<p>Request No. 12: <i>Documents sufficient to show the identity of New Jersey commercial payors with whom you are an in-network provider for at least one commercial product.</i></p>		

Request	HSS Response	Current Status
<p>Request No. 13: <i>Documents sufficient to show all marketing materials and advertisements you have created, commissioned or purchased relating to the inpatient GAC, outpatient, physician services, or Your services generally, where and when such materials or advertisements were distributed, in what quantity (e.g., number of impressions), the target audience, and the total amount of Your marketing and advertising spend. This request extends to advertisements in any medium, including but not limited to print, television, radio, billboards, internet, social media, and direct marketing.</i></p>	<p style="text-align: center;"><u>No Documents Produced</u> <u>Objection in Full</u></p>	<p>Englewood proposed limiting this request to materials and advertisements targeted at Northern New Jersey, including billboards, print ads in local papers, NJ Transit signage, and similar materials.</p>